

ATTORNEY DOCKET
016295.1421
(DC-05148)

PATENT APPLICATION
10/659,880

1



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Gary J. Verdun et al.

Serial No.:

10/659,880

Date Filed:

September 11, 2003

Group Art Unit:

2179

Confirmation No.:

5013

Examiner:

Wong, Noble S.

Title:

**SYSTEM, METHOD AND SOFTWARE
FOR COMMUNICATING THE EFFECTS
OF USER PREFERENCE SETTINGS IN
AN INFORMATION HANDLING SYSTEM**

MAIL STOP - PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail No. EV352405389US addressed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on February 12, 2007.

A handwritten signature in black ink, appearing to read "Matt Walker".

Matt Walker

Dear Sir:

**Non-Fee Petition Under 37 C.F.R. § 1.181 to Withdraw
Holding of Abandonment and Re-Mail Office Action**

This petition is filed in response to notification by the U.S. Patent and Trademark Office that the above-referenced patent application has been abandoned for failure to file a timely and proper reply to the Office Action dated June 28, 2006, which set a three month period for reply. This Petition under 37 C.F.R. § 1.181 is to request that the holding of abandonment be withdrawn. As indicated in the attached statement of facts, due to no fault of Applicants, Applicants never received the Office Action, and therefore, did not respond by the six-month final due date of December 28, 2006. Accordingly, the holding of abandonment is improper pursuant to M.P.E.P. § 711.03(c)II. The required showing to establish non-receipt pursuant to M.P.E.P. § 711.03(c)II is provided in the following documents:

1. Counsel's Statement of Facts in Support of Petition to Withdraw Holding of Abandonment.
2. Copy of Notice of Abandonment mailed on January 25, 2007.
3. Copy of the File History Wrapper for Serial No. 10/659,880.
4. Copy of the docket record dated May 26, 2006 through August 24, 2006, where the non-received Office Action would have been entered had it been received and docketed.
5. Copy of returned office action envelope and 1st page of office action, both of which have received stamp dates of July 13, 2006.

As the abandonment of this case was through no fault of the Applicants, it is respectfully requested that a new Office Action be mailed and the date for response to be three months from the mail date of the new Office Action, pursuant to M.P.E.P. §711.03(c)II. It is not believed that any fees are due. However, if it is determined that a petition fee or any additional fees are due, please charge these fees to Baker Botts L.L.P. Deposit Account No. 50-2148.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorney for Applicants

E. M. Grabski

Eric M. Grabski
Reg. No. 51,749

Date: February 12, 2007

Correspondence Address:

Customer No. **23640**
Tel. 512.322.2689
Fax 512.322.8320

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Gary J. Verdun et al.
Serial No.: 10/659,880
Date Filed: September 11, 2003
Group Art Unit: 2179
Confirmation No.: 5013
Examiner: Wong, Noble S.
Title: **System, Method and Software for
Communicating the Effects of User
Preference Settings in an Information
Handling System**

Commissioner of Patents
P.O. Box 1450
Alexandria, Virginia 22313.1450

Dear Sir:

**Counsel's Statement of Facts in Support of Petition
to Withdraw Holding of Abandonment**

I am a patent attorney employed with Baker Botts L.L.P ("Baker Botts"). I am listed as an attorney of record for the above-identified pending U.S. patent application entitled *System, Method And Software For Communicating The Effects Of User Preference Settings In An Information Handling System* filed on September 11, 2003, Application No. 10/659,880 ("the Application"). My residence and place of employment are Austin, Texas, and were so at all times relevant to the Statement of Facts. The following facts relate to the Application.

1. All mail from the U.S. Patent and Trademark Office ("the PTO") received in the Austin, Texas office of Baker Botts is routed to an Intellectual Property mail clerk. The mail clerk opens and date-stamps all received mail, and forwards each office action received from the PTO to the particular paralegal assigned to that case. The mail clerk does not record a log of received mail and therefore no such log is provided; such a log is not required according to M.P.E.P. § 711.03(c)II.

2. After the received office actions are routed to the appropriate paralegals, the paralegals are then responsible for docketing the office actions. For each office action, the response due date is docketed along with any other papers due.

3. According to the file history wrapper for the Application maintained by Baker Botts (*see* Tab 3), the office action for the Application dated June 28, 2006 ("the Office Action") has not been docketed and there is no due date for the response to the Office Action. Also attached is a copy of the docket record where an entry for the Office Action -- which was not received by Baker Botts -- would have been entered had it been received and docketed (*see* Tab 4). The docket record under Tab 4 has been redacted to preserve client confidences. These documents indicate that the Office Action was not received by Baker Botts.

4. A copy of the envelope in which the Office Action was mailed from the PTO, along with the first page of the Office Action, are attached under Tab 5. As seen on the copy of the envelope, the mailing address information is missing from the envelope. As such, the Postal Service could not deliver the Office Action, and the Office Action was returned to the PTO on July 13, 2006 (as stamped on the envelope). The returned envelope -- with no mailing address -- is further proof that Applicants never received the Office Action.

5. As an attorney of record for the Application, I attest that the Office Action was not received by Baker Botts from the PTO. Further, I attest that I have performed a search of the Application's file jacket and all of its contents. The results of the search revealed that the office action was not in the file jacket. This further indicates that the Office Action was not received by Baker Botts.

ATTORNEY'S DOCKET:
016295.1421
(DC-05148)

PATENT APPLICATION
10/659,880

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application for any patent issuing thereon.

E. M. Grabski

Eric M. Grabski
Reg. No. 51,749

Date: February 12, 2007
Telephone: (512) 322-2689

CUSTOMER NO. 23640



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,880	09/11/2003	Gary J. Verdun	016295.1421 (DC-05148)	5013
23640	7590	01/25/2007		
BAKER BOTTS, LLP		Docketed 1-2901 Attorney BP		
910 LOUISIANA				EXAMINER
HOUSTON, TX 77002-4995		Case 016295.1421		WONG, NOBLE S
		Due Date 3-25-07	ART UNIT	PAPER NUMBER
		Action <u>Letter to Review</u>	2173	
		By <u>dc</u>	MAIL DATE	DELIVERY MODE
			01/25/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

RECEIVED
JAN 29 2007
BAKER BOTTS LLP

Notice of Abandonment	Application No.	Applicant(s)	
	10/659,880	VERDUN ET AL.	
	Examiner Noble S. Wong	Art Unit 2173	

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address-

This application is abandoned in view of:

1. Applicant's failure to timely file a proper reply to the Office letter mailed on 28 June 2006.
 - (a) A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) No reply has been received.
2. Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) The issue fee and publication fee, if applicable, has not been received.
3. Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) No corrected drawings have been received.
4. The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. The reason(s) below:

In a phone interview dated January 18, 2007, representative Katie Carnes at (512) 322-2500 confirms that a timely reply was not sent to the Office.

Kreidermeyer
Kree Vu
Primary Examiner

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Country Application

Friday, February 09, 2007

Page: 1

Client Matter Number: 016295.1421

Country: US

SubCase:

Client: DELL INC.

United States of America

Client Reference No: DC-05148 AU

Case Type: ORD

Resp.Office: HO

Application Status: Published

Status Date:

Application Number: 10/659880

Filing Date: 11-Sep-2003

Publication Number: 0060659A1

Publication Date: 17-Mar-2005

Patent Number:

Issue Date:

Parent/PCT Number:

Parent/PCT Date :

Parent Issue Number:

Parent Issue Date :

Tax Schedule: LE

Expiration Date:

Confirmation #:

Patent Term Adjustment: 0

Agent:

Agent Reference #:

PTO Customer Number:

Priority Number:

Historical Family No.:

New Family Number: 016295.1421.UTL

Matter:

Claims: 22

Annuity Client?: No

Tax Start Date:

Remarks: Baker Botts is not responsible for maintenance/annuity payments. Dell handles their own maintenance/annuity payments through CPI.

09/800044 filed 05-Mar-2001

Country Application

Friday, February 09, 2007

Page: 2

List Of Actions

Action(s) Due	Due Date	Action Taken
Application Mailed	12-Aug-2003	Due Date 11-Sep-2003
Assignment Filed	11-Sep-2003	Due Date 11-Sep-2003
Oath/Declaration	11-Sep-2003	Reminder 11-Sep-2003
Application Follow Up Date	11-Nov-2003	Due Date 19-Sep-2003
Filing Receipt Received	03-Dec-2003	Due Date 09-Dec-2003
Formal Drawings Due	11-Dec-2003	Due Date 11-Sep-2003
Information Disclosure Stmtt	11-Dec-2003	Reminder 11-Sep-2003
Req.Correct.Filing Receipt	21-Jan-2004	Due Date 21-Jan-2004
Assignment Filed	27-Jan-2004	Due Date 27-Jan-2004
Assignment Recorded A	27-Jan-2004	Due Date 27-Jan-2004
Return Postcard	27-Jan-2004	Due Date 13-Feb-2004
Return Postcard	27-Jan-2004	Due Date 13-Feb-2004
Assignment Filed Follow Up	11-Mar-2004	Due Date 13-Apr-2004
Assignment Recorded B	13-Apr-2004	Due Date 13-Apr-2004
Assignment Recorded C	18-May-2004	Due Date 18-May-2004
Assignment Recorded D	19-May-2004	Due Date 19-May-2004
Assignment Filed	08-Jun-2004	Due Date 08-Jun-2004
Return Postcard	08-Jun-2004	Due Date 28-Jun-2004
Follow Up Re Filing Receipt	21-Jul-2004	Due Date 20-Feb-2004
Assignment Recorded B	19-Jan-2005	Due Date 19-Jan-2005
Req.Corrected Assignment	19-Jan-2005	Due Date 19-Jan-2005
Return Postcard	19-Jan-2005	Due Date 02-Feb-2005
Assignment Filed Follow Up	08-Feb-2005	Due Date 31-Jul-2004
Information Dis Follow Up Date	11-Mar-2005	Due Date
Notice of Publication Rec'd	17-Mar-2005	Due Date 28-Mar-2005
Corrected Assignment Follow Up	19-Jul-2005	Due Date 21-Jun-2005

Country Application

Friday, February 09, 2007

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Petition to Revive 22-Jan-2007 Due Date

We never received Office Action - returned to USPTO marked Undeliverable because no address was printed on the envelope.

Notice of Abandonment 25-Jan-2007 Due Date 29-Jan-2007

Petition to Revive Reminder 25-Feb-2007 Reminder

Petition to Revive Due 25-Mar-2007 Final

Request for Status Due 21-Apr-2007 Due Date

Per email from T. Rosson dated 4/21/06, per PAIR, we should expect to receive the 1st office action within 16 months. Move status check back 1 year.

Assignment History

Assignment From	Assignment To	Assignment Date	Reel	Frame
Verdum, Gary J.	Dell Inc.	09-Sep-2003	014496	0347
Schuckle, Richard W.	Dell Inc.	08-Sep-2003	014496	0347
Unknown	Unknown	19-May-2004	014688	0876
Verdun; Schuckle	Dell Products L.P.	26-Jan-2004	014925	0280
Dell Inc.	Dell Products L.P.	12-May-2004	016161	0188

Created By: DLALLEN2

User ID: DLALLEN2

Date Created: 16-May-2003

Last Update: 29-Jun-2005

Aus Secretary's General Docket Report

DueDate	Indicator	Action Due	ActionType/ Country Name	File Number/ Application No./ Filing Date	Title	Status/ Client Name
5/26/2006	Due Date	US-File Application	File Application	US		Unfiled
5/26/2006	Due Date	US-File Application File Application	US			Unfiled
5/26/2006	Due Date	US-File Application File Application	US			Unfiled
5/26/2006	Due Date	US-File Application File Application	US			Unfiled
6/2/2006	Due Date	Information Disclosure Stmt				Pending
6/4/2006	Reminder	US-3 Month Office Action 1 Month to Due Date	US	10/23/2006		
6/6/2006	Reminder	US-2 Month Office Action 2nd Extension	US	9/4/2002 N Monday Done 1/3		Published
6/21/2006	Reminder	US-2 Month Office Action 1st Extension	US	12/10/2004		Published
		Remark				

Aus Secretary's General Docket Report

Due Date	Action Type/ Indicator	Action Due	File Number/ Country Name	Application No./ Filing Date	Title	Status/ Client Name
7/4/2006	Due Date	US-3 Month Office Action	US [REDACTED]	[REDACTED] 10/23/2002	[REDACTED]	Published
7/6/2006	Reminder	US-2 Month Office Action 3rd Extension	US [REDACTED]	[REDACTED] 9/4/2002	[REDACTED]	Published
7/8/2006	Reminder	US-Notice of Appeal Filed 1 Month Reminder/Appeal Brief	US [REDACTED]	[REDACTED] 1/8/2003	[REDACTED]	Published
		Remark Todd - Please check status of pre-appeal brief.				
		Wait to file Appeal Brief until decision on pre-appeal.				
7/11/2006	Reminder	Review for Broad Reissue	US [REDACTED]	[REDACTED] 8/13/2002	[REDACTED]	Granted
		✓				
7/15/2006	Due Date	US-Application Filed Application Follow Up Date	US [REDACTED]	[REDACTED] 5/15/2006	[REDACTED]	Pending
		✓				
7/17/2006	Due Date	Filing Fees Due	US [REDACTED]	[REDACTED] 4/21/2006	[REDACTED]	Pending
		✓				
7/17/2006	Due Date	Remark US-2 Month Missing Parts Oath/Declaration Due	US [REDACTED]	[REDACTED] 4/21/2006	[REDACTED]	Pending
		✓				
		Remark				
7/17/2006	Due Date	US-2 Month Missing Parts Assignment	US [REDACTED]	[REDACTED] 4/21/2006	[REDACTED]	Pending
		✓				
		Remark				

Aus Secretary's General Docket Report

DueDate	Indicator	Action Due	File Number/	Application No./	Status/	
Responsible Perso		EGRABSKI	Country Name	Filing Date	Title	Client Name
7/17/2006	Due Date	US-2 Month Missing Parts Drawings	US	4/21/2006	[REDACTED]	Pending
7/20/2006	Due Date	Appln Status Check (14 Mo.)	[REDACTED]	[REDACTED]	[REDACTED]	Pending
7/21/2006	Reminder	US-2 Month Office Action 2nd Extension	US	5/20/2005 12/10/2004	[REDACTED] [REDACTED]	Published
7/21/2006	Due Date	Information Disclosure Stmtt	US	[REDACTED]	[REDACTED]	Pending
7/21/2006	Due Date	US-2 Month Office Action 2 Weeks To Final Date	US	9/4/2002	[REDACTED] [REDACTED]	Published
7/22/2006	Due Date	US-Application Filed Application Follow Up Date	US	5/22/2006	[REDACTED] [REDACTED]	Pending
7/23/2006	Due Date	US-Pre-Appeal Brief Pre-Appeal Brief Decision	US	1/8/2003	[REDACTED] [REDACTED]	Published
7/24/2006	Due Date	US-Application Filed Application Follow Up Date	US	5/24/2006	[REDACTED] [REDACTED]	Pending
Remark	Filed electronically. Todd - Please check status of pre-appeal.					
Remark	Todd - Please confirm PTO receipt.					
Remark	Todd - Please check status of pre-appeal.					
Remark	Filed electronically. Todd - Please confirm PTO receipt.					

Aus Secretary's General Docket Report

Aus Secretary's General Docket Report

DueDate	ActionType/ Indicator	Action Due	File Number/ Country Name	Application No./ Filing Date	Title	Status/ Client Name
8/4/2006	Reminder	US-3 Month Office Action 1st Extension	US [REDACTED]	[REDACTED] 10/23/2002	[REDACTED]	Published
8/6/2006	Final	US-2 Month Office Action 6 Month Final Date	US [REDACTED]	[REDACTED] 9/4/2002 [REDACTED] 11/3	[REDACTED]	Published
8/8/2006	Due Date	US-Notice of Appeal Filed 2 Month Appeal Brief Deadline	US [REDACTED]	[REDACTED] 1/8/2003	[REDACTED]	Published
		Remark Todd - Please check status of pre-appeal brief.				
8/17/2006	Due Date	Appin Status Check (14 Mo.) Appin Status Check (14 Mo.)	US [REDACTED]	[REDACTED] 6/17/2005	[REDACTED]	Pending
		Remark				
8/17/2006	Due Date	Appin Status Check (14 Mo.) Appin Status Check (14 Mo.)	US [REDACTED]	[REDACTED] 6/17/2005	[REDACTED]	Pending
		Remark				
8/17/2006	Due Date	Appin Status Check (14 Mo.) Appin Status Check (14 Mo.)	US [REDACTED]	[REDACTED] 6/17/2005	[REDACTED]	Pending
		Remark				
8/17/2006	Due Date	Appin Status Check (14 Mo.) Appin Status Check (14 Mo.)	US [REDACTED]	[REDACTED] 6/17/2005	[REDACTED]	Pending
		Remark				
8/17/2006	Reminder	US-2 Month Missing Parts Filing Fees Reminder	US [REDACTED]	[REDACTED] 4/21/2006	[REDACTED]	Pending
		Remark				

Aus Secretary's General Docket Report

DueDate	ActionType/ Indicator	Action Due	File Number/ Country Name	Application No./ Filing Date	Title	Status/ Client Name
8/17/2006	Reminder	US-2 Month Missing Parts Drawings Reminder	[REDACTED] US	4/21/2006 5	[REDACTED]	Pending
8/17/2006	Reminder	US-2 Month Missing Parts Assignment Reminder	[REDACTED] US	4/21/2006	[REDACTED]	Pending
		Remark			<i>No Cryo 2719 Mandins</i>	
8/17/2006	Reminder	US-2 Month Missing Parts Oath/Declaration Reminder	[REDACTED] US	4/21/2006	[REDACTED]	Pending
		Remark				
8/17/2006	Due Date	US-3 Month Office Action US-4 Mo. Response Status Check	[REDACTED] US	4/29/2002	[REDACTED]	Published
		Remark Response after Non-Final Action received at the USPTO on 04/17/06.				
8/19/2006	Due Date	US-Final Office Action 2 Month Amendment Due Date	[REDACTED] US	7/7/2004	[REDACTED]	Published
		Remark				
8/21/2006	Reminder	US-2 Month Office Action 3rd Extension	[REDACTED] US	12/10/2004	[REDACTED]	Published
		Remark				
8/22/2006	Due Date	Information Disclosure Stmt Information Disclosure Stmt	[REDACTED] US	5/22/2006	[REDACTED]	Pending
		Remark				
8/24/2006	Due Date	Information Disclosure Stmt Information Disclosure Stmt	[REDACTED] US	5/24/2006	[REDACTED]	Pending
		Remark				

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Due Date	Action Type/ Indicator	Action Due Responsible Person	File Number/ Country Name	Application No./ Filing Date	Title	Status/ Client Name
8/24/2006	Reminder	US-2 Month Missing Parts Oath/Declaration Reminder	[REDACTED] [REDACTED]	5/12/2006	[REDACTED] [REDACTED]	Pending
8/24/2006	Reminder	US-2 Month Missing Parts Drawings Reminder	[REDACTED] US	5/12/2006	[REDACTED] [REDACTED]	Pending
		Remark	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
8/24/2006	Reminder	US-2 Month Missing Parts Filing Fees Reminder	[REDACTED] US	5/12/2006	[REDACTED] [REDACTED]	Pending
		Remark	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
8/24/2006	Reminder	US-2 Month Missing Parts Assignment Reminder	[REDACTED] US	5/12/2006	[REDACTED] [REDACTED]	Pending
		Remark	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
8/24/2006	Due Date	Information Disclosure Stmt Information Disclosure Stmt	[REDACTED] US	5/24/2006	[REDACTED] [REDACTED]	Pending
		Remark	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

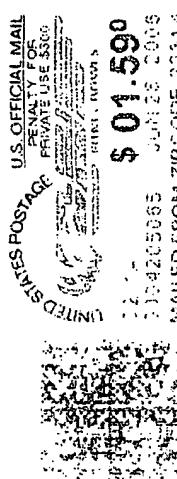
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P.O. Box 1450

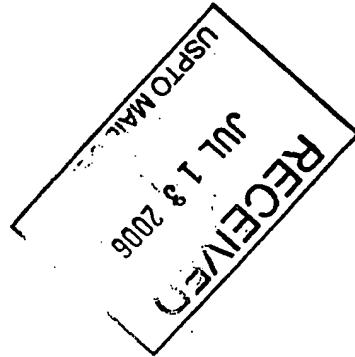
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DAN

APPLICATION NO.	FILED	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,880	7590	09/11/2003	Gary J. Verdun	016295.1421 (DC-05148)	5013
23640	7590	06/28/2006		EXAMINER	
BAKER BOTTS, LLP 910 LOUISIANA HOUSTON, TX 77002-4995				WONG, NOBLE S	
				ART UNIT	PAPER NUMBER
				2179	

DATE MAILED: 06/28/2006

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